

**STATE ALLOCATION BOARD**

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<http://www.dgs.ca.gov/opsc>

**IMPLEMENTATION COMMITTEE MINUTES**

February 6, 2004

1020 N Street  
Legislative Office Building, Room 100  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
Lori Morgan, OPSC  
Fred Yeager, CDE  
Dave Doomey, CASH  
John Palmer, CASBO  
Mark DeMan, LAUSD (Alternate for Beth Hamby)  
Bill Cornelison, ACS

Dennis Dunston, CEFPI  
Constantine Baranoff, SSD  
Panama Bartholomy, DSA  
Brian Wiese, AIA (Afternoon Only)  
Gary Gibbs, CBIA  
Blake Johnson, DOF

**Members Absent**

Debra Pearson, SSDA

Jay Hansen, SBCTC

The meeting on February 6, 2004 was called to order at 9:34 a.m. The minutes from the January 8, 2004 meeting were approved as written.

**CHAIR REPORT**

The Chair welcomed Blake Johnson, new representative from the Department of Finance. Staff provided an update on the regulations impacted by the Executive Order.

***Executive Order Regulatory Update***

Four more regulatory tracts were approved in February. The following regulations are included in the approved tracts:

- Toxic Remediation
- California Schools for the Deaf and Blind
- Urban
- 60/40 Modernization Funding
- State Allocation Board (SAB) Quorum
- Charter School Facility Program
- First round of Use of Grant Changes impacting Section 1859.77.2

To date, six regulatory tracts have been approved. The two Labor Compliance tracts which include grant increases and certifications have been denied.

*Building Maintenance Account – Three Percent School District Deposit Calculation*

The Chair reported that the Office of Public School Construction (OPSC) was recently informed of legislative counsel's opinion on the calculation of the three percent contribution to the Restricted Maintenance account. The opinion states that the three percent maintenance requirement calculation may not exclude from the total of its general fund expenditures the amount that the district expends from its other restricted accounts. A report on this subject will be presented at the February 2004 SAB meeting.

**CLEAN SCHOOL RESTROOMS (Senate Bill (SB) 892 MURRAY)**

Staff reported that since the effective date of the legislation, 11 complaints have been received and that the impacted districts have been notified. Staff requested the Committee's suggestions regarding OPSC's complaint process and input on future considerations for the withholding of deferred maintenance funds. For purposes of discussion, staff presented copies of the complaint and response forms, a flow chart illustrating the proposed complaint process, and options for the withholding of deferred maintenance funds.

*Resolution at the Local Level*

Many participants felt that the matter of restroom maintenance is a local issue, and that a district's formal complaint process should be sufficient to handle restroom maintenance complaints. It was suggested that the complainant be encouraged to resolve the complaint at local level. Some felt that only in cases of extreme and persistent problems should the OPSC and the SAB be involved. The Chair proposed that staff look into the possibility of integrating the OPSC complaint process into the local complaint process.

*Disproportionate Punishment*

The question was raised as to whether the punishment is proportionate to the violation, since the entire amount of a district's deferred maintenance funds could be withheld due to a single complaint at one school in the district. Chair suggested staff seek the opinion of legal counsel regarding the language specific to the withholding process in order to determine whether the withholding could be prorated.

*Complaint Notification*

Concern was expressed regarding directing the complaint notification letter to the district superintendent, rather than the district representative. Many felt that the school's principal should be copied on the notification.

*Frivolous Complaints*

The question of how to prevent frivolous complaints was raised, especially in circumstances when the complainant remains anonymous. A member of the audience noted that the proposed process requires that the complaint be in writing, and therefore filters many of the frivolous complaints. It was suggested that the complainant also certify "under penalty of perjury" that the information on the form is correct.

### *Violation Codes*

It was suggested that the violation codes on the complaint form may unduly influence the complainant, and that the complaint form should be completed in narrative form only. Staff raised the point that the rationale for using specific violation codes was to keep the complainant within the violation parameters defined in law.

### *Interpretation of the Law*

Specifically referencing the toll-free complaint line, concerns were raised suggesting the OPSC's interpretation of the law might be excessive. Discussion continued regarding the law's requirements that the SAB determine whether a violation has occurred. The SAB would need a mechanism in place that is readily accessible to the public and that contains the specific parameters by which the OPSC would accept and process complaints.

### *Complainant Notification*

Various scenarios regarding complainant notification were discussed.

Further input was welcomed from the Committee and attendees. This item will be presented again at the March 5, 2004 Implementation Committee meeting.

## **HAZARDOUS WASTE REMOVAL COSTS (AB 1008 DUTTON)**

This item is continued from the January 2004 Committee meeting. Previously, members had requested clarification regarding the possibility of receiving reimbursement for hazardous waste/material removal costs prior to audit close-out. A previous inquiry was also made regarding the effective date of AB 1008 and who can benefit from its provisions.

### *Opportunities for Reimbursement*

Districts presently have the ability to receive compensation for hazardous waste removal costs during the following phases of a project:

- Site or Site/Design (financial hardship projects only)
- Environmental Hardship Request
- Adjusted Grant
- One-Time Early Site Audit
- Final Expenditure Audit

### *Effective Date*

Staff clarified that projects are audited according to the School Facility Program (SFP) guidelines and regulations in effect at the time the application for funding is accepted by the OPSC. A request was made to include grandfathering provisions in the SFP regulations in order to accommodate projects that did not request hazardous waste removal on the application, but were received after the effective date of the law. Staff will take this request into consideration.

Proposed regulations pertaining to AB 1008 will be presented to the February 2004 SAB meeting.

## **SFP NEW CONSTRUCTION ADDITIONAL GRANT FOR ENERGY EFFICIENCY**

The creation of a task force was precipitated by the Board's request to report on ways to ensure greater utilization of the SFP energy program. Staff presented proposed regulatory amendments which were written in response to task force discussions and relate to the new construction grant for energy efficiency.

The proposed regulatory amendments reflect changes to the formulas that calculate the additional grant for energy efficiency. The proposed calculation is based upon a more gradually stepped scale than the current calculation, and would more precisely accommodate smaller incremental increases in a project's energy efficiency score.

A suggestion was made to substitute the proposed regulation text with the actual mathematical formula used to determine the grant multiplier. Staff had considered this previously, and will reassess the rationale used to create the proposed regulatory text prior to presenting the item to the SAB.

A representative from Building Systems Management made a brief presentation on future considerations for the continued improvement of the energy program. His suggestions included easing the energy efficiency requirements for modernization projects and changing the approval processes for the OPSC and the DSA.

A suggestion was made to base the energy grant on the actual cost of the energy efficiency component. Participants pointed out that this method may not be practical, since it is problematic to assign specific monetary values for each construction component associated with creating energy efficiency.

Proposed regulatory amendments will be scheduled for the March 2004 SAB meeting.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, March 5, 2004 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Room(s) 72.149B & 72.151A, in Sacramento, California.